IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1028 of 2005 (M/B)

Khushi Ram S/o Sri Banwari Lal,
R/o C/o Sri Krishan Lal Sharma,
Adarsh Colony, Nakatia,
Post Office PAC, Bareilly (U.P.). ……. Petitioner

Versus

1. State of Uttaranchal,
through Chief Secretary,
Uttaranchal Government, Dehradun.
2. Public Service Commission,
Commission Building,
Gurukul Kangri, Kankhal,
District Haridwar through its Secretary.
3. Secretary, Public Service Commission,
Commission Building, Gurukul Kangri,
Kankhal, District Haridwar. ……. Respondents

Mr. Kishore Kumar, Advocate representing Mr. Ram Ji Srivastava, Advocate for the petitioner.
Mr. B.D. Kandpal, Standing Counsel for respondents Nos 2 and 3.

JUDGMENT
Coram: Hon. RAJEEV GUPTA, C.J.
Hon. M.M. Ghildiyal, J.

RAJEEV GUPTA, C.J. (Oral)

The petitioner has filed this writ petition for the following reliefs:

> "i. issue a writ, order or direction in the nature of Mandamus commanding the respondent authorities to declare the marks of petitioner, obtained by him in the main / interim examination, and provide 2% reservation to the candidates, belonging to the category of ex-armyman in the Civil Services (PCS) Examination, 2002, as per the reservation policy of Government dt. 18.7.2001.
>
> ii. pass any other and further orders, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
>
> iii. award the cost of writ petition to the petitioner."

2. The petitioner appeared in Civil Services (PCS) Examination held in the year 2002 to fill up 396 posts. The petitioner's main grievance is that though as per the Government policy, 2% of the

posts were reserved for Ex-Serviceman, the respondents, in the recruitment process initiated in the year 2002 and completed in 2005, have not complied with the above reservation policy, in as much as, out of 396 posts advertised under 31 categories in different departments, only 2 posts were reserved for Ex-Servicemen category; one in Naib Tehsidar Category and the other in Food Inspector Category.

3. The learned Standing Counsel for Public Service Commission submitted that the reservation granted to Ex-Servicemen is horizontal and it cannot be implemented in the manner suggested by the petitioner on the basis of the total number of 396 posts advertised, as the 2% reservation can be effected only in those departments where the number of vacant posts is such that 2% of the same works out to at least 'one'. The learned counsel further submitted that it is on the above criteria that one post in the category of Naib Tehsildar (50 Posts) and one in the category of Food Inspector (66 Posts) were reserved for the candidates belonging to Ex-Servicemen Category. It was further pointed out that since the petitioner belongs to General Category, his claim on the post of Naib Tehsildar stood defeated by a more meritorious candidate of the Ex-Servicemen Category. The petitioner could not be appointed against the post in the Food Inspector Category as he did not possess the requisite qualification for the said post.

4. The learned counsel for the petitioner is not in a position to controvert the above factual aspects of the matter.

5. In this view of the matter, we do not find any ground for grant of the reliefs sought by the petitioner.

6. The writ petition, therefore, fails and is, hereby, dismissed.

(M.M. Ghildiyal, J.) **(Rajeev Gupta, C.J.)**
06.03.2006 **06.03.2006**

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